

Moorhead - Clay County Joint Powers Authority (MCCJPA)

Thursday, March 6, 2025, 1:00 p.m.

Clay County Courthouse, Third Floor Meeting Rooms

In Person Meeting with Microsoft Teams Option Available

MINUTES

1) CALL TO ORDER

The meeting was called to order by Commissioner Campbell at 1:00 p.m.

2) ROLL CALL

City of Moorhead: Council Member Chuck Hendrickson

Clay County: Commissioner Kevin Campbell

Commissioner Jenny Mongeau

BRRWD: Member Gerald Van Amburg – Attending via Teams at: 4518 5th St South
Moorhead, MN 56560

Others Present or on Microsoft Teams:

Jessica Warren, Compliance Specialist, Jason Benson, Executive Director, Jodi Smith, Diversion Authority

Attorneys, John Shockley, Chris McShane, Kathryn McNamara, and Lukas Andrud, Ohnstad Twichell Law

Eric Dodds, Dean Vetter, Sabrina Tusa, AE2S

Dale Ahlsten and Scott Stenger, ProSource

Ken Helvey and Katie Laidley, SRF Consulting

Bob Zimmerman, City of Moorhead

Stephen Larson and Sarah Hellem, Clay County staff

Rob Stefonowicz, Larkin Hoffman

3) APPROVAL OF AGENDA

Commissioner Mongeau moved, and Council Member Hendrickson seconded, to approve the agenda. Motion carried.

4) APPROVAL OF MINUTES

Council Member Hendrickson moved, and Commissioner Mongeau seconded, to approve the minutes from January 23, 2025. Motion carried.

5) CITIZENS TO BE HEARD

There were no citizens to be heard.

6) PROJECT UPDATES

a. Property Acquisition Status Report

Eric Dodds, AE2S, referred to the packet and discussed the map pertaining to the MCCJPA Acquisition Status and stated property rights have been attained on 160 parcels; 60 parcels are pending value; 2 parcels have a flowage easement signed; 11 parcels are in eminent domain; 2 parcels have a railroad agreement pending; 6 parcels are eminent domain authorized; and 9 parcels are in negotiation. The property acquisition progress was discussed with the construction footprint is 98.4% complete, with no change from last month. The

upstream mitigation area (UMA) footprint is at 58.1% complete, with an increase of 0.3% from last month. The Property Acquisition Progress by Location was briefly discussed with the Southern Embankment being 95.3% complete, with no change from last month, UMA being 58.1% complete, with an increase of 0.3% from last month, and the Environmental Monitoring Easement being 77.6% complete, with an increase of 0.3% from last month. The Drayton Dam, In-Town Levees, Stormwater Diversion Channel, and Oxbow Hickson-Bakke are 100% complete. The Property Acquisition Progress by MCCJPA is 66.5% complete, with no change from last month. The Southern Embankment & Associated Infrastructure is 80% complete, with no change from last month, the Upstream Mitigation Area is 57% complete, with no change from last month, the UMA – Wolverton remains at 7.1%, with no change, and the Environmental Monitoring Easements is 83.8% complete, with no change from last month. The Landowner Overview was discussed which shows owner groups and parcels broken down for the construction and UMA footprint with 98% of the owner groups complete for the Construction Footprint and 59.6% for the UMA Footprint.

The key activities are to continue negotiating settlement agreements for existing eminent domain actions. In the last month, successfully closed on 2 parcels/2 owners, in the UMA. Completing appraisal reports for the Christine area flowage easements and Horace Mobility Improvements. Continuing the process of disposing of excess lands – 39 parcels/684.22 acres have been approved as excess lands, 16 parcels/544.93 acres are moving through the policy and 23 parcels/139.29 acres have been sold or pending closing. Finalizing farmland leases for 2025. For Minnesota properties, vacate dates for owners of occupied structures is April 1, 2025, for Clay County and June 1, 2025, for Wilkin County.

The Land Agent Reports for the Minnesota side of the project include providing relocation advisory and claim preparation services to people that are moving. Assisting with mediations and settlement negotiations. Start negotiations for Wolverton flowage easements. Processing RIMP reimbursement requests. And providing final walk-through assistance as needed.

Commissioner Mongeau discussed the potential pause in projects on the Minnesota side due to funding, along with the Wolverton part of the project and asked how this could disrupt the progress of this part of the project. Mr. Dodds stated we're having bi-weekly meetings with the Buffalo Red River Watershed District (BRRWD) on the progress of their design and land acquisition. They are a little further behind than maybe they had hoped to be at this point and some of that is waiting for title opinions and some of it is process. Mr. Dodds stated the last he spoke with them they were still holding some optimism that they could be ready to start construction later this year. John Shockley, Ohnstad Twichell, stated on the funding side I think the intent is to see if there are additional funds available from Minnesota. I think when the legislative session is over there will probably be a review of where we're at with respect to the overall project funding and what additional contributions come from Minnesota but obviously have an impact on timing of various projects. Mr. Shockley stated he believes that there is a natural lag in some of the project timing and so trying to get additional funding from the state of Minnesota is probably very timely right now. Commissioner Mongeau stated that information was very helpful and appreciated the discussion.

Commissioner Campbell asked if there are areas that are going to be outside of the protected area, in regard to the Wolverton flowage easements. Mr. Dodds stated the flowage easements that we have an obligation to obtain are primarily between the river and the levee. There are some areas that will still be impacted by our flowage easement areas. The areas absent the levee we wouldn't be responsible for more flowage easements, but the levee is cutting off some of those impacts.

b. MN Litigation Action Update

Chris McShane, Ohnstad Twichell, stated the action in Minnesota has been slow, but the next step for the Commissioners is to conduct site visits, which will be scheduled this spring. We have not made the deposit for the Wilkin County properties yet because the landowners have claimed they will get their mortgage holders to sign off on the checks going entirely to the landowners instead of the court. However, they haven't made a lot of progress on that yet. We're at the stage now where we're just going to go to the City of Moorhead to get paid because we're a month late and that isn't generally our process, but we can't go too much further. We'll coordinate with the city and the Diversion Authority to make sure the city is properly reimbursed.

Council Member Hendrickson asked what the timeframe was for the city to be reimbursed by the Diversion Authority. Mr. McShane stated he's hopeful it would only be a matter of days after the payment was made.

7) EXECUTIVE SESSION

- a. Closed Executive Session pursuant to Minn. Stat. § 13D.05 subd. 3(b) and 3(c)(3) for attorney consultation regarding the purchase of property interests/settlement negotiations for the property identified as OINs 1271, 1298, 1299, 1308, 1309, 1238, 1239, 1249, 1258, 1259 and 1260.**

Council Member Hendrickson moved, and Commissioner Mongeau seconded, to approve to go into executive session at 1:11 p.m. Motion Carried.

Council Member Hendrickson moved, and Commissioner Mongeau seconded, to approve to come out of executive session at 1:37 p.m. Motion Carried.

8) ACTION ON NEGOTIATION SUMMARY FOR OINs 1271, 1298, 1299, 1308, 1309, 1238, 1239, 1249, 1258, 1259 and 1260

Mr. Dodds read the proposed motion which states Ness will convey to the MCCJPA a flowage easement with respect to OINs 1238 1239 1249 1258 1259 1260 1271 1298 1299 1308 1309, consisting of approximately 415 acres and an environmental monitoring easement of approximately 31.5 acres, as depicted in the MCCJPA's appraisals, and to be defined more fully by survey to be completed by the MCCJPA. The MCCJPA will pay Ness the sum of \$1,300,000 upon closing of the real estate transaction contemplated under the parties' settlement agreement, as outlined above. The MCCJPA will place an additional \$300,000 in an escrow account to be dispersed to Ness upon completion by Ness of mitigation of the existing structures according to the terms of an escrow agreement between the parties, to comply with the requirements of the flowage easement on OINs 1238 1239 1249 1258 1259 1260 1271 1298 1299 1308 1309 on or before June 1, 2026. If Ness does not complete the mitigation of existing structures by June 1, 2026, the MFDA will remove any non-compliant structures and retain funds per the escrow agreement. The MCCJPA will reimburse Ness for reasonable and eligible relocation costs and expenses in accordance with the Uniform Relocation Act, and applicable state law. Following the closing of the real estate transaction contemplated under the parties' settlement agreement, the eminent domain action, City of Moorhead v. Timothy A. Ness et al. Civ. No. 84-CV-24-525 will be dismissed. The MCCJPA will reimburse Ness for reasonable attorneys' fees and costs, not to exceed \$70,000.

Commissioner Campbell asked if the escrow agreement has been approved and signed. Mr. Dodds stated if this gets approved, Lukas Andrud with Ohnstad Twichell, and his team will draft

the Purchase Agreement and the Escrow Agreement, and will ensure that it matches the intent of what has been discussed today. Commissioner Campbell asked if it matches the intent here, then no further action would be required by the MCCJPA. Mr. Dodds stated that was correct.

Council Member Hendrickson moved, and Member Van Amburg seconded, to approve the negotiation summary for OINs 1271, 1298, 1299, 1308, 1309, 1238, 1239, 1249, 1258, 1259 and 1260, as presented. Motion Carried.

9) PROPERTY MANAGEMENT

a. 2025 Farmland Lease

Jessica Warren, Diversion Authority, stated there is one farmland lease to be approved which is for OIN 1840Y.

Member Van Amburg moved, and Council Member Hendrickson seconded, to approve the farmland lease for OIN 1840Y. Motion Carried.

10) ADJOURN

The meeting was adjourned at 1:45 p.m.

Stephen Larson, MCCJPA Secretary